

REMARKS

Claim 3, 6, and 22-28 remain pending. Claims 3 and 6 have been rewritten in independent form.

Claim 22 was rejected under 35 USC 103 as unpatentable over applicant admitted prior art (AAPA), the manual bundle opening process described in the background of the invention, in view of Villachica U.S. Patent No. 5472097 and Grahm et al. U.S. Patent No. 3,889,442. The examiner cites the abstract of Villachica:

A document or package sorting workstation (10), ergonomically designed to maximize manual or machine-assisted sorting efficiencies and throughput, while minimizing or eliminating opportunities for losses or mis-sorts and improved methods for sorting documents and packages. The workstation (10) is made of an upper workstation (32) which is an inclined chute (14) with dividers (12) placed parallel to flow of documents or packages, and front stop (29); a lower workstation (28) having a support frame and receptacle for bag holder (24); a bag holder (24) having supporting frames and a glider (22); an accessory holder (30); and a loading shelf (16).

Agreed that this discloses sliding articles down a chute to a work table. Any resemblance to the present invention ends there because the workstation is one for sorting, not opening a bundle.

Grahm et al. describes a device for removing plastic wrap from a rectangular package. Applicant wishes the examiner to consider the issues of (1) whether there is a reasonable basis for combining these sources of prior art, and (2) even if combinable, are all of the limitations of applicant's claim 22 accounted for. Villachica is relied on only for the bin, table and chute elements. Grahm is cited for an "automated film slitter 20 which in Grahm Figure 1 is a pair of knives mounted to contact the sides of a package 1 moving on a roller conveyor 18." The examiner states first that Grahm's slitter "is automatically activated ...) and concludes:

Grahn teaches a method of unbundling bundled items comprising a work table (18) whereupon an operator moves the bundled article (1) adjacent at least one automated film splitter (20) mounted along one side of the horizontal work surface (18), wherein the film splitter is automatically activated when the bundle is moved adjacent the film splitter and repeating the manual moving step as needed to remove the wrapping.

Concerning what Grahn discloses, no operator is ever mentioned. There is only one mention of a manual step:

Package 1 are hand loaded on conveyor table 18 and moved toward knives 20 to 23 and after passage of these knives upon conveyor table 18a. In the event the cutting resistance experienced by the knives causes stoppage of a package the next succeeding package will push forward the stopped package. (col. 3 lines 40-45)

The item has to stay on the conveyor path in the same orientation to leave open the option of being rear-ended by the next item. It is not manually repositioned as in the present invention. It is equally clear that the cut wrap is removed by the machine, not manually as in claim 22 of the present application:

The station also has members for securing the wrapping when the lifting device lifts up the containers. At this station there are also devices for removing cut up plastic after the containers have been lifted out. (col. 2, lines 19-23)

As to the splitter, claim 22 recites an “automated film splitter which is mounted along one side of the horizontal work surface, the film splitter being automatically activated”. The wording of the claim was not intended to read upon a naked blade mounted at the side of the table that slices the side of the package as it rolls by. Such a blade is not “activated” in any sense like a hot air knife, which is exemplary of that applicant meant by an automated film splitter in the specification. This limitation of the present claims is likewise not disclosed.

The claim limitations concerning manual handling while on the table are also not disclosed by Grahn. There is no step of “repeating the manual moving step as needed to slit the film along four sides of the bundle”. Where is the examiner seeing this in Grahn et al.?

Regarding combining the references, the examiner continues:

It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated an automatic film splitter of the type disclosed in Grahn to the previously completely manual method of AAPA/Villachica in order

to more economically and efficiently cut the wrapping from the bundled article without as much manual intervention.

One doesn't use a chute to feed items to a slitter that requires proper positioning on a conveyor as in Grahn. If manual intervention is a bad thing, the process of the invention is entirely manual other than for the actuation of the slitters, and one skilled in the art would use the Grahn system without reference to AAPA or Villachica. There is no basis for the proposed combination because Grahn does the job by itself; by the examiner's reasoning it would be a step backward to incorporate manual steps from the other references. Accordingly, the subject matter of claim 22 is patentably distinct from the methods taught by the cited prior art.

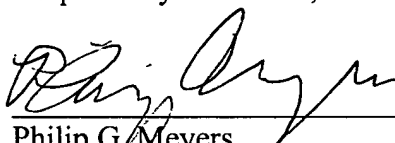
Regarding claim 3, the operative limitation remains: "wherein a first film slitter is positioned at 90° relative to a second film slitter and wherein the method further comprises simultaneously cutting the film on at least two sides of the bundle, which sides are oriented at 90° relative to each other." The examiner states at page 4 that one skilled in the art "would have expected applicant's invention to perform equally well with either the opposing slitters taught by Grahn or the claimed 90 degree slitters because either performs the function of slitting the film equally well." This is the wrong question. For obviousness purposes, we are talking about trying to combine one reference with another, not trying to alter applicant's invention. From that point of view Grahn relies on using two slitters in opposing positions because he is using rolling movement of the bundle to accomplish slitting. If the slitters 20 were at 90 degrees to one another, Grahn's process would not work, and certainly no advantage would be obtained by such an arrangement. Accordingly the subject matter of claim 3 is therefore not obvious in view of the cited references.

Regarding claim 6, the examiner cites the same three references in view of Bretschneider et al. U.S. Patent Pub. 20050045531. Bretschneider et al. is based on both a U.S. provisional application filed 9/3/03 and a German application filed 9/25/03. It appears that the effective date of the reference for prior art purposes is 8/25/04 because the provisional application was filed in German and no translation was filed; see MPEP 201.11. The present application was filed 12/8/03, so Bretschneider et al. is not prior art unless the examiner can demonstrate otherwise. In addition, even if it were prior art, the examiner is arguing that Bretschneider et al. discloses a

self-adjusting lift supporting the cartridge 5. It is not understood where this can be seen in Bretschneider et al. Fig. 3 shows a cart which comprises a rolling frame 7 which can be folded to an L-shape, but is in no sense self adjusting. Applicant's claim requires that "the lift adjusting the elevation of the cartridge such that the top of the stack of flat items is maintained adjacent the work surface." Thus whether or not Bretschneider et al. is prior art, claim 6 is patentably distinguishable over the art cited.

Favorable action and passage of the case to issue are respectfully requested. It is believed that no other fees are due. It is believed that no additional fee is due. If this is incorrect, the Commissioner is hereby authorized to charge any fees which may be required by this paper to Deposit Account No. 50-1588.

Respectfully submitted,


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